



# **PRESCRIPTION MONITORING PROGRAM STATE PROFILES – VIRGINIA**

**Research current through July 2014.**

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# VIRGINIA

[http://www.dhp.virginia.gov/dhp\\_programs/pmp/default.asp](http://www.dhp.virginia.gov/dhp_programs/pmp/default.asp)

Ralph A. Orr, Director  
(804) 367-4523  
ralph.orr@dhp.virginia.gov

- Status of Program – operational
- Housing Entity – Department of Health Professions
- Advisory Commission – yes
- Funding – not specified in PMP statutes or regulations
- Drugs Monitored – Schedules II – IV, certain non-controlled/non-scheduled substances
- Who’s Required to Report Dispensing Information – all dispensers; dispenser means a person or entity that is authorized to dispense a covered substance
- Exemptions from Reporting – drug samples; covered substances pursuant to an indigent patient program offered by a pharmaceutical manufacturer; dispensing by practitioner in a bona fide emergency or when pharmaceutical services are not available; administering of covered substances; narcotic maintenance treatment programs; dispensing to hospital or nursing facility inpatients; dispensing to hospice patients; veterinarians
- Nonresident Pharmacies Required to Report – yes
- Veterinarians Required to Report – no
- Data Collection Interval – weekly/7 days
- Notice to Consumers – yes
- Interstate Sharing – with other PMPs and authorized users in other states
- Persons Authorized to Receive Information – Chief Medical Examiner; law enforcement and judicial/prosecutorial officials; licensing/regulatory boards; Medicaid Fraud Control Unit; designated employees of the Department of Medical Assistance Services; substance abuse professionals for services to licensed health care professionals; patient; prescribers; dispensers
- Delegates Allowed – yes
- De-identified Data Provided – yes
- Unsolicited Reports – to prescribers and law enforcement
- Training Required – no
- Mandatory Enrollment – yes; all prescribers licensed to treat human patients (eff. July 1, 2015)
- Mandatory Access – yes; multiple circumstances; see States that Require Prescribers and/or Dispensers to Access PMP in Certain Circumstances, compilation of statutes, on NAMSDDL’s website for further information

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2520. Program establishment; Director's regulatory authority

A. The Director shall establish, maintain, and administer an electronic system to monitor the dispensing of covered substances to be known as the Prescription Monitoring Program. Covered substances shall include all Schedule II, III, and IV controlled substances, as defined in the Drug Control Act (§ 54.1-3400 et seq.) and any other drugs of concern identified by the Board of Pharmacy pursuant to § 54.1-3456.1.

B. The Director, after consultation with relevant health regulatory boards, shall promulgate, in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), such regulations as are necessary to implement the prescription monitoring program as provided in this chapter, including, but not limited to, the establishment of criteria for granting waivers of the reporting requirements set forth in § 54.1-2521.

C. The Director may enter into contracts as may be necessary for the implementation and maintenance of the Prescription Monitoring Program.

D. The Director shall provide dispensers with a basic file layout to enable electronic transmission of the information required in this chapter. For those dispensers unable to transmit the required information electronically, the Director shall provide an alternative means of data transmission.

E. The Director shall also establish an advisory committee within the Department to assist in the implementation and evaluation of the Prescription Monitoring Program.

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2521. Reporting requirements

A. The failure by any person subject to the reporting requirements set forth in this section and the Department's regulations to report the dispensing of covered substances shall constitute grounds for disciplinary action by the relevant health regulatory board.

B. Upon dispensing a covered substance, a dispenser of such covered substance shall report the following information:

1. The recipient's name and address.
2. The recipient's date of birth.
3. The covered substance that was dispensed to the recipient.
4. The quantity of the covered substance that was dispensed.
5. The date of the dispensing.
6. The prescriber's identifier number.
7. The dispenser's identifier number.
8. The method of payment for the prescription.
9. Any other non-clinical information that is designated by the Director as necessary for the implementation of this chapter in accordance with the Department's regulations.
10. Any other information specified in regulations promulgated by the Director as required in order for the Prescription Monitoring Program to be eligible to receive federal funds.

C. The reports required herein shall be made and transmitted in such manner and format and according to the standards and schedule established in the Department's regulations.

West's Annotated Code of Virginia (2014)  
Title 54.1. Professions and Occupations  
Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions  
Chapter 25.2. Prescription Monitoring Program

§ 54.1-2522.1. Requirements of Prescribers.

<Text of section effective July 1, 2015>

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions upon filing an application for licensure or renewal of licensure, if the prescriber is not already registered.

B. Prescribers registered with the Prescription Monitoring Program shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of benzodiazepine or an opiate anticipated to last more than 90 consecutive days and for which a treatment agreement is entered into, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. The Secretary of Health and Human Resources may identify and publish a list of benzodiazepines or opiates that have a low potential for abuse by human patients. Prescribers who prescribe such identified benzodiazepines or opiates shall not be required to meet the provisions of subsection B. In addition, a prescriber shall not be required to meet the provisions of subsection B if the course of treatment arises from pain management relating to dialysis or cancer treatments.

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2522. Reporting exemptions

The dispensing of covered substances under the following circumstances shall be exempt from the reporting requirements set forth in § 54.1-2521:

1. Dispensing of manufacturers' samples of such covered substances or of covered substances dispensed pursuant to an indigent patient program offered by a pharmaceutical manufacturer.
2. Dispensing of covered substances by a practitioner of the healing arts to his patient in a bona fide medical emergency or when pharmaceutical services are not available.
3. Administering of covered substances.
4. Dispensing of covered substances within an appropriately licensed narcotic maintenance treatment program.
5. Dispensing of covered substances to inpatients in hospitals or nursing facilities licensed by the Board of Health or facilities that are otherwise authorized by law to operate as hospitals or nursing homes in the Commonwealth.
6. Dispensing of covered substances to inpatients in hospices licensed by the Board of Health.
7. Dispensing of covered substances by veterinarians to animals within the usual course of their professional practice.
8. Dispensing of covered substances as otherwise provided in the Department's regulations.

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 15 of § 2.2-3705.5. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

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1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.
2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.
3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in determining the validity of a prescription in accordance with § 54.1-3303 when the recipient is seeking a covered substance from the dispenser or the facility in which the dispenser practices. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.
4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.
5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.
6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.
7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.
8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

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E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2523.1. Criteria for indicators of misuse; Director's authority to disclose information; intervention

The Director shall develop, in consultation with an advisory panel, criteria for indicators of misuse and a method for analysis of data collected by the Prescription Monitoring Program using the criteria for indicators of misuse. Upon the development of such criteria and data analysis, the Director may, in addition to the discretionary disclosure of information pursuant to § 54.1-2523, disclose information using the criteria that indicates potential misuse by recipients of covered substances to (i) their specific prescribers for the purpose of intervention to prevent such misuse or abuse or (ii) an agent who has completed the Virginia State Police Drug Diversion School designated by the Superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department for the purpose of an investigation into possible drug diversion.

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 25.2. Prescription Monitoring Program

§ 54.1-2523.2. Authority to access database

Any prescriber or dispenser authorized to access the information in the possession of the Prescription Monitoring Program pursuant to this chapter may, pursuant to regulations promulgated by the Director to implement the provisions of this section, delegate such authority to health care professionals who are (i) licensed, registered, or certified by a health regulatory board under the Department of Health Professions or in another jurisdiction and (ii) employed at the same facility and under the direct supervision of the prescriber or dispenser.

West's Annotated Code of Virginia (2014)

Title 54.1. Professions and Occupations

Subtitle III. Professions and Occupations Regulated by Boards Within the Department of Health Professions

Chapter 34. Drug Control Act

Article 5. Standards and Schedules

§ 54.1-3456.1. Drugs of concern.

A. The Board may promulgate regulations designating specific drugs and substances, including any controlled substance or other drug or substance where there has been or there is the actual or relative potential for abuse, as drugs of concern. Drugs or substances designated as drugs of concern shall be reported to the Department of Health Professions and shall be subject to reporting requirements for the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.).

B. Drugs and substances designated as drugs of concern shall include any material, compound, mixture, or preparation that contains any quantity of the substance Tramadol, including its salts. Drugs and substances designated as drugs of concern shall not include any non-narcotic drug that may be lawfully sold over the counter or behind the counter without a prescription.

Virginia Administrative Code (2014)

Title 12. Health

Vac Agency No. 35. Department of Behavioral Health and Developmental Services

Chapter 105. Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services

Part VI. Additional Requirements for Selected Services

Article 1. Medication Assisted Treatment (Opioid Treatment Services)

12 VAC 35-105-940. Criteria for involuntary termination from treatment.

A. The provider shall establish criteria for involuntary termination from treatment that describe the rights of the individual receiving services and the responsibilities and rights of the provider.

B. The provider shall establish a grievance procedure as part of the rights of the individual.

C. On admission, the individual shall be given a copy of the criteria and shall sign a statement acknowledging receipt of same. The signed acknowledgement shall be maintained in the individual's record.

D. Upon admission and annually all individuals shall sign an authorization for disclosure of information to allow programs access to the Virginia Prescription Monitoring System. Failure to comply shall be grounds for nonadmission to the program.

Virginia Administrative Code (2014)  
Title 18. Professional and Occupational Licensing  
Vac Agency No. 76. Department of Health Professions  
Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-40. Standards for the manner and format of reports and a schedule for reporting.

A. Data shall be transmitted to the department or its agent within seven days of dispensing as provided in the Electronic Reporting Standard for Prescription Monitoring Programs, Version 4.1 (November 2009) of the American Society of Automation in Pharmacy (ASAP), which are hereby incorporated by reference into this chapter.

B. Data shall be transmitted in a file layout provided by the department and shall be transmitted by a media acceptable to the vendor contracted by the director for the program. Such transmission shall begin on a date specified by the director, no less than 30 days from notification by the director to dispensers required to report.

C. Under extraordinary circumstances, an alternative means of reporting may be approved by the director.

D. Data not accepted by the vendor due to a substantial number of errors or omissions shall be corrected and resubmitted to the vendor within five business days of receiving notification that the submitted data had an unacceptable number of errors or problems.

E. Required data elements shall include those listed in subsection B of § 54.1-2521 of the Code of Virginia and the following:

1. The Drug Enforcement Administration (DEA) registration number of the dispenser;
2. The total number of refills ordered;
3. Whether the prescription is a new prescription or a refill; and
4. The date the prescription was written by the prescriber.

Virginia Administrative Code (2014)  
Title 18. Professional and Occupational Licensing  
Vac Agency No. 76. Department of Health Professions  
Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-50. Criteria for mandatory disclosure of information by the director.

A. In order to request disclosure of information contained in the program, an individual shall be registered with the director as an authorized agent entitled to receive reports under § 54.1-2523 B of the Code of Virginia.

1. Such request for registration shall contain an attestation from the applicant's employer of the eligibility and identity of such person.

2. Registration as an agent authorized to receive reports shall expire on June 30 of each even-numbered year or at any such time as the agent leaves or alters his current employment or otherwise becomes ineligible to receive information from the program.

B. An authorized agent shall only request disclosure of information related to a specific investigation, or in the case of a request from the Health Practitioners' Monitoring Program (HPMP), disclosure of information related to a specific applicant for or participant in HPMP. Requests shall be made in a format designated by the department and shall contain a case identifier number, a specified time period to be covered in the report, and the specific recipient, prescriber, or dispenser for which the report is to be made.

C. The request from an authorized agent shall include an attestation that the prescription data will not be further disclosed and only used for the purposes stated in the request and in accordance with the law.

Virginia Administrative Code (2014)  
Title 18. Professional and Occupational Licensing  
Vac Agency No. 76. Department of Health Professions  
Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-60. Criteria for discretionary disclosure of information by the director.

A. In accordance with § 54.1-2523 C of the Code of Virginia, the director may disclose information in the program to certain persons provided the request is made in a format designated by the department.

B. The director may disclose information to:

1. The recipient of the dispensed drugs, provided the request is accompanied by a copy of a valid photo identification issued by a government agency of any jurisdiction in the United States verifying that the recipient is over the age of 18 and includes a notarized signature of the requesting party. The report shall be mailed to the address on the license or delivered to the recipient at the department.

2. The prescriber for the purpose of establishing a treatment history for a patient or prospective patient or for the purpose of obtaining a record of prescriptions issued by that prescriber, provided the request is accompanied by the prescriber's registration number with the United States Drug Enforcement Administration (DEA) and attestation that the prescriber is in compliance with patient notice requirements of 18 VAC 76-20-70. The prescriber may delegate the submission of a request for information, provided the delegation is in compliance with § 54.1-2523.2 of the Code of Virginia. The health care professionals to whom the prescriber has authorized access to information shall be registered with the program. Requests for information made by a delegated health care professional shall be made in his own name, using his own unique identifiers assigned by the program.

3. Another regulatory authority conducting an investigation or disciplinary proceeding or making a decision on the granting of a license or certificate, provided the request is related to an allegation of a possible controlled substance violation and that it is accompanied by the signature of the chief executive officer who is authorized to certify orders or to grant or deny licenses.

4. Governmental entities charged with the investigation and prosecution of a dispenser, prescriber, or recipient participating in the Virginia Medicaid program, provided the request is accompanied by the signature of the official within the Office of the Attorney General responsible for the investigation.

5. A dispenser for the purpose of establishing a prescription history for a specific person to assist in determining the validity of a prescription, provided the request is accompanied by the dispenser's license number issued by the relevant licensing authority and an attestation that the dispenser is in compliance with patient notice requirements of 18 VAC 76-20-70.

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C. In each case, the request must be complete and provide sufficient information to ensure the correct identity of the prescriber, recipient, and/or dispenser.

D. Except as provided in subdivision B 1 of this section, the request form shall include an attestation that the prescription data will not be further disclosed and only used for the purposes stated in the request and in accordance with the law.

E. In order to request disclosure of information contained in the program, a designated employee of the Department of Medical Assistance Services or of the Office of the Chief Medical Examiner shall register with the director as an authorized agent entitled to receive reports under § 54.1-2523 C of the Code of Virginia.

1. Such request for registration shall include an attestation from the applicant's employer of the eligibility and identity of such person.

2. Registration as an agent authorized to receive reports shall expire on June 30 of each even-numbered year or at any such time as the agent leaves or alters his current employment or otherwise becomes ineligible to receive information from the program.

Virginia Administrative Code (2014)  
Title 18. Professional and Occupational Licensing  
Vac Agency No. 76. Department of Health Professions  
Chapter 20. Regulations Governing the Prescription Monitoring Program

18 VAC 76-20-70. Notice of requests for information.

A. Any dispenser who intends to request information from the program for a recipient or prospective recipient of a Schedule II, III, or IV controlled substance shall post a sign that can be easily viewed by the public at the place where the prescription is accepted for dispensing and that discloses to the public that the pharmacist may access information contained in the program files on all Schedule II, III or IV prescriptions dispensed to a patient. In lieu of posting a sign, the dispenser may provide such notice in written material provided to the recipient, or may obtain written consent from the recipient.

B. Any prescriber who intends to request information from the program about a patient or prospective patient shall post a sign that can be easily viewed by the public that discloses to the public that the prescriber may access information contained in the program files on all Schedule II, III or IV prescriptions dispensed to a patient. In lieu of posting a sign, the prescriber may provide such notice in written material provided to the patient, or may obtain written consent from the patient.